

Article - Insurance

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§15–1206.

(a) (1) A carrier may not arbitrarily transfer a small employer involuntarily into or out of a health benefit plan.

(2) A carrier may not offer to transfer a small employer into or out of a health benefit plan unless the offer to transfer is made to all small employers with similar risk adjustment factors.

(b) A carrier shall make a reasonable disclosure in its solicitation and sales materials of:

(1) the provisions that relate to the carrier's right to change premium rates, including any factors that may affect the changes in premium rates;

(2) the provisions that relate to renewability of policies and contracts;

(3) the provisions that relate to preexisting conditions; and

(4) the provisions of § 15–1209 of this subtitle that require an employer to make dependent coverage available to eligible employees but do not require the employer to make a contribution to the premium payments for that dependent coverage.

(c) (1) Subject to the approval of the Commissioner and as provided under this subsection and § 15–1209(d) of this subtitle, a carrier may impose reasonable minimum participation requirements.

(2) A carrier may not impose a requirement for minimum participation by the eligible employees of a small employer that is greater than 75%.

(3) In applying a minimum participation requirement to determine whether the applicable percentage of participation is met, a carrier may not consider as eligible employees:

(i) those who have group spousal coverage under a public or private plan of health insurance or another employer's health benefit arrangement, including Medicare, Medicaid, and CHAMPUS, that provides benefits similar to or exceeding the benefits provided under a bronze level health plan as described in 45 C.F.R. § 156.140; or

(ii) employees who are under the age of 26 years who are covered under their parent's health benefit plan.

(4) A carrier may not impose a minimum participation requirement for a small employer group if any member of the group participates in a medical savings account.

(5) A carrier may not impose a minimum participation requirement for a qualified employer if the qualified employer designates a coverage level within which its employees may choose any qualified health plan in the SHOP Exchange, as provided for in § 31–111(c)(1) of this article.

(6) A carrier may not impose a minimum participation requirement for a small employer group if the small employer group applies for coverage during the period that begins on November 15 and extends through December 15 of any year.

(d) (1) On or before March 15 of each year, each carrier shall file an actuarial certification with the Commissioner.

(2) The actuarial certification shall be written in a form that the Commissioner approves, by a member of the American Academy of Actuaries or another person acceptable to the Commissioner and shall state that the carrier is in compliance with this subtitle and has followed the rating practices imposed under § 15–1205 of this subtitle.

(3) The actuarial certification shall be based on an examination that includes a review of appropriate records and actuarial assumptions and methods used by the carrier.

(e) (1) To indicate compliance with subsections (b) and (c)(1) of this section and § 15–1205(e) of this subtitle, a carrier shall maintain information and documentation that is satisfactory to the Commissioner.

(2) A carrier shall:

(i) retain all information and documentation required under this subtitle at its principal place of business for a period of 5 years; and

(ii) make the information and documentation available to the Commissioner on request.

(f) A carrier may not implement a producer commission schedule that varies the amount of a commission based on the size of a small employer group unless the variation:

(1) is inversely related to the size of the small employer group;

(2) applies to the cumulative premium paid over a specific period of time, is uniformly applied, and is inversely related to the cumulative premium paid during the period of time; or

(3) is established by a contract between the carrier and each outside producer, and the carrier:

(i) specifies in the contract the group size to which the variation applies;

(ii) directs the outside producer to refer small employers of the specified size to an employee of the carrier who is a licensed producer or to a company affiliated with the carrier through common ownership within an insurance holding company; and

(iii) pays a commission to the employee producer described in item (ii) of this item.

(g) (1) A licensed insurance producer, in connection with the sale, solicitation, or negotiation of a health benefit plan to a small employer, shall:

(i) provide information to the small employer about wellness benefits; and

(ii) advise the small employer to consult a tax advisor about the tax advantages of a payroll deduction plan under § 125 of the Internal Revenue Code.

(2) The information shall be provided:

(i) whenever the employer purchases or renews a health benefit plan; and

(ii) on request.

(h) (1) In accordance with regulations adopted by the Commissioner, a licensed insurance producer may provide to a small employer information about the

Maryland Medical Assistance Program and the Maryland Children's Health Program for the small employer to distribute to its employees during the enrollment period.

(2) The information provided under paragraph (1) of this subsection shall be restricted to general information about the Maryland Medical Assistance Program and the Maryland Children's Health Program, including:

- (i) income eligibility thresholds; and
- (ii) application instructions.

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